

From: todd ferguson
To: Microsoft ATR
Date: 1/25/02 11:34am
Subject: Microsoft Settlement

Dear Sir or Madam:

I feel that the settlement proposed in the Microsoft case will not be effective in curbing the anti-competitive practices of the company, and that the real issues of Microsoft's anti-competitive practices have yet to be addressed. The three chief concerns I have with Microsoft's business practices are as follows:

- 1) They have forced competing operating system (OS) makers out of business, and kept other operating systems to an extremely marginal market share through the illegal leveraging of their monopoly power in the software field to influence the decisions of manufacturers of computer hardware.
- 2) They have kept file formats (especially for the "Office" programs) closed and proprietary, to the detriment of the consumer and to those companies that would want to compete with them on that front.
- 3) Their application programming interface (API) for Windows remains largely unpublished, making it more difficult to compete against them.

I am a user of the Be operating system, produced by Be, Inc. This OS could never gain enough market penetration to become profitable because of Microsoft's restrictions upon, and threats against computer manufacturers. In one publicly known incident, the company Hitachi was ready to ship computers that would boot into either Microsoft Windows or the BeOS. When Microsoft heard about this, they threatened Hitachi by saying they would no longer license Windows to them to sell on their computer systems. Faced with this threat, Hitachi chose to disable the BeOS on those computer systems on which it had already been installed, and quit installing it on any others. Because people are far more likely to adopt an OS when it is pre-installed on their computer, and not very likely at all to go out and purchase an unheard of OS, the BeOS was dead in the water, so to speak, if it couldn't come pre-installed on premanufactured computer systems.

My second grievance I think becomes clearer when we look at some other areas of computer technology. There are numerous choices in the fields of computer graphics design, viewing, and editing, computer audio design, recording, playback, and editing, and computer video design, playback, and editing. These are also all markets where Microsoft has failed to gain the substantial market share that it has in other computer markets (e.g. OS's and Office software). I think the most important reason is that open file formats (e.g. jpeg, mpeg, .wav, etc.) became the standard in these areas of media production, before the closed file formats of Microsoft had a chance to take hold. In the area of Office suites, however, Microsoft was able to get an appreciable market share early on, and the world now has, literally, billions of documents, spreadsheets, etc. in MS Office format.

People will not try out another Office suite, because none of them will open up these files correctly, because Microsoft has not disseminated the necessary information about these file formats.

Third is the API. The only people that have full access to the Microsoft API is Microsoft. How can another company expect to publish competing software on the Windows platform, if they do not have access to all the tools necessary for writing software for that platform. Many companies have to write their own API's for Windows, because they cannot get the needed information from Microsoft. This is yet another clear abuse of Microsoft's monopoly.

The current settlement addresses these issues little, if at all. I would please ask you to reconsider the proverbial slap to the wrists that you are about to give Microsoft, and come up with a solution that will actually bring about change, and return fair play and competition to the computing industry. Any settlement needs to prevent Microsoft from bullying computer manufacturers, needs to force them to open their file formats, and needs to force them to publish their API's. Anything less than that, I feel, will be to little to do any good.

Thank you for taking the time to read this,

Todd Ferguson
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